

REMARKS

Claims 43-102 are pending. Claims 1-42 are canceled without prejudice to being presented in a divisional application. Claims 43 and 82 are amended. No new matter is involved. Reconsideration of the Application, as amended, is respectfully requested.

Allowed Claim

Applicants thank the examiner for allowing claim 102.

Abstract of the Disclosure

The Office Action indicates that an Abstract of the Disclosure is not present, and requires submission of an Abstract. This requirement is respectfully traversed. Applicants respectfully disagree. This application is a National Stage Entry under 35 USC 371 and has an abstract, which was published as part of the International Patent Application (of which this is the National Stage entry).

Reconsideration and withdrawal of this request for a new abstract are respectfully requested.

Rejection under 35 USC 112, Second Paragraph

The Office Action rejects claims 43-101 for being indefinite. This rejection is respectfully traversed.

This rejection is moot in view of the amendment of claims 43 and 83 to change “and” to - - and/or - - in the third last clause of the claims, so that the third last clause reads: “one or more decision rules are determined to be used in combination with at least part of the obtained output scores to determine a winning class, wherein said determination of the output score functions and/or decision rules comprises:”

Support for this amendment is found, for example, in Applicants’ original disclosure including, for example, on page 12, lines 29-32, which discloses determination of each output score function and/or decision rule.

Claims are considered to be definite, as required by the second paragraph of 35 U.S.C. §112, when they define the metes and bounds of a claimed invention with a reasonable degree of precision and particularity. See In re Venezia, 530 F.2d 956, 958, 189 USPQ 149, 151 (CCPA 1976). In that case the court did not require Venezia's claims to recite his elements as being interconnected. Applicant's claims recite a slot feature structure, and only need to recite those elements which distinguish the invention from the prior art. The definiteness of claim language is analyzed, not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing ordinary skill in the pertinent art, In re Moore, 439 F.2d 1232, 1235, 169 USPQ 236, 238 (CCPA 1971). Furthermore, the Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is

sought. See in this regard, In re Swinehart, 439 F.2d 210, 160 226 (CCPA 1971).

The recitation in the claims of the various recited elements is clear, and one of ordinary skill in the art can readily determine the metes and bounds of the invention without any further recitations.

The test for compliance with the second paragraph of 35 USC §112, as stated in Miles Lab., Inc. v. Shandon Inc., 997 F.2d 870, 875, 27 USPQ2d 1123, 1126 (Fed. Cir. 1993), cert. denied, 510 U.S. 1100 (1994) is whether one skilled in the art would understand the bounds of the claims when read in light of the specification. If the claims, read in light of the specification, reasonably apprise those skilled in the art of the scope of the invention, Section 112 demands no more. See, also, In re Merat, 519 F.2d 1390, 1396, 186 USPQ 471, 476 (CCPA 1975), which stated that the question under Section 112, second paragraph is whether the claim language, when read by a person of ordinary skill in the art in light of the specification, describes the subject matter with sufficient precision that the bonds of the claimed subject matter are distinct. See, also, In re Warmerdam, 33 F3d 1354, 1361, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994).

The second paragraph of 35 USC 112 requires claims to be set out and circumscribe a particular area with a reasonable degree of precision and particularity, In re Johnson, 558 F.2d 1008, 1015, 194 USPQ 187, 193 (CCPA 1977).

Applicants respectfully submit that claims 43, as amended, and dependent claims 44-82 satisfy these requirements because they remove the alleged contradiction by including the use of “and/or” in the third last and second last clauses of claim 43, so that the third last clause recites a “determination of the output score functions and/or decision rules” and the second last and last clauses recite those determinations in the alternative or in conjunction. Applicants respectfully submit that this is proper in an open ended claim such as claim 43 that uses the “comprising” transition terminology which has consistently been held to be “open ended.”

Similar comments apply to claim 83 and the claims that depend from claim 83, and the claims that depend from claim 43.

Reconsideration and withdrawal of the rejection of claims 43-101 under 35 USC §112, second paragraph, are respectfully requested.

Rejection under 35 USC §101

Claims 43-82 stand rejected under 35 USC 101. This rejection is respectfully traversed.

Claim 43 has been amended to recite a “computerized method of training a computer classification system . . .” and includes the following positively recited step: “training the computer classification system.” Thus, claims 43-82 positively recite a useful computer method that fully complies with the requirements of 35 USC §101.

Claim 82 has also been amended to change "classification system configured" to - - classification method - - so that claim 82 (which depends from claim 43) and claim 43 are in the same statutory class.

Reconsideration and withdrawal of this rejection of claims 43-82 under 35 USC §101 is respectfully requested.

Conclusion

Applicants respectfully submit that all grounds of objection and rejection have been fully responded to and that the grounds of objection and rejection have been overcome, and that this Application is in condition for allowance.


Applicants respectfully request that this Application be passed to issue.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants respectfully petition for a three-month extension of time for filing a reply in connection with the present application, and the required fee of \$1020 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
Joseph A. Kolasch, #22,463

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

JAK/RJW:mmi
2836-0115P